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Attorney for Defendant:
GABRIEL ZENDEJAS-CHAVEZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. 18-CR-173-GW
)	
Plaintiff,)	MOTION TO DISMISS, OR IN
)	THE ALTERNATIVE, TO
vs.)	EXCLUDE
)	
GABRIEL ZENDEJAS-CHAVEZ,)	
)	
Defendant.)	
)	

Defendant Gabriel Zendejas-Chavez moves this Court for orders precluding certain evidence and witnesses at trial. This motion is based on the attached memorandum of points and authorities and any further argument of evidence the Court wishes to consider.

Dated: July 31, 2022

Respectfully submitted,

/s/ Meghan Blanco

MEGHAN A. BLANCO
Attorney for Defendant,
GABRIEL ZENDEJAS-CHAVEZ

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Mr. Chavez moves this Court for orders precluding the government from (1) referencing the stepping down of Turi Estrada and the murders of GE and DC; and (2) calling CW-4 and CW-6 as witnesses at trial. Further, the government should be ordered to produce the informant referenced in CW-1's file prior to the start of trial.

II. FACTS

a. THE FEBRUARY 4, 2014 MEETING

According to the government, on February 4, 2014, a cooperating witness who was then working as an informant for the Long Beach Police Department (CW-6), notified his handlers that a Mexican Mafia meeting was scheduled to take place at The Zendejas Restaurant in Ontario. Three Long Beach Police Detectives accompanied CW-6 and CW-5 to the meeting. It is unclear whether CW-5 was working as an informant for any law enforcement agency at the time.

The Long Beach Detectives documented the meeting in a series of photographs. Mr. Chavez was not included in any of the photographs. The detectives reportedly told the FBI that they did not take notes or write a formal report of the meeting. However, to date, the FBI has not documented these representations in writing.

On January 15, 2015 - nearly one year after the purported meeting - the FBI drafted a 302 of the event. It is unclear whether the information contained within the 302 came from the reporting detectives, CW-6, or a combination thereof, as the report contains no attribution whatsoever. A copy is attached to the Under Seal Declaration of Meghan Blanco, as Exhibit A. Both CWs were actively cooperating with the FBI by the time agents drafted the January 15, 2015 report.

1 The initial report of the February 4 meeting indicates that Mr.
2 Chavez attended the meeting and that CW-6 notified Long Beach
3 detectives that Mr. Chavez discussed taking undisclosed messages to
4 inmates at Pelican Bay State Prison. CW-6 did not mention Mafia
5 Member Arturo Estrada or his now-deceased brother, GE.

6 CW-5 drove to the meeting with CW-6. As indicated above, it is
7 unclear whether CW-5 was cooperating with local law enforcement at
8 the time. However, reports indicate he began cooperating with the
9 FBI by September 2014. During his initial interviews with the FBI,
10 CW-5 disclosed substantial information relating to the FBI's
11 investigation into the Mexican Mafia LACJ Enterprise. However, he
12 did not discuss the February 4, 2014 meeting. CW-5 made his first
13 disclosure regarding the purported February 4, 2014 meeting on March
14 13, 2015, when he participated in a pre-grand jury proffer with the
15 assigned AUSAs and was specifically asked about the meeting.

16 CW-5 stated that during the meeting, he was introduced to Mr.
17 Chavez and discussed a pending grand theft auto case. He also
18 indicated that Mr. Chavez notified the group that he planned to see
19 Landa Rodriguez at LACJ. CW-5 did not report that Mr. Chavez
20 discussed passing messages to anyone at Pelican Bay.

21 CW-5 also indicated, for the very first time, that members of the
22 group discussed problems they were having with AE's brother GE.
23 However, there was no discussion of stepping down AE or of hurting GE
24 or DC.

25 Over the course of the next few years, CW-5 and CW-6 were asked
26 additional questions regarding the alleged February 4 meeting. Their
27 accounts varied widely.

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1 Reports indicate that CW-5 worked as a facilitator for AE until
2 early 2014, when he was replaced by AE's brother, GE. CW-5 became
3 upset over this, and complained to deceased Mexican Mafia Member
4 Robert Ruiz. Reportedly, CW-5's feud with GE was the reason he
5 accompanied CW-6 to the February 4, 2014 meeting.

6 CW-5 reported that in the following months, he met with Ruiz again.
7 Ruiz reportedly ordered him to kill GE, because he previously worked
8 as a soldier for GE's brother, AE. CW-5 claimed to have found others
9 to agree to murder GE for him, although he claims that the two
10 individuals were arrested before they could carry-out the murder. GE
11 and CD¹ were murdered in late 2014 while CW-4 was purportedly working
12 as a facilitator for another, rival Mexican Mafia member.

13 B. INFORMATION PRODUCED JULY 31, 2022

14 Last week, the parties appeared before this Court on defendant's
15 motions to compel and to preclude. Two motions addressed the
16 government's discovery obligations relating to various CWs, the
17 stepping down of AE, and the murders of GE and CD. During hearings
18 last Monday and Thursday, the government forcefully asserted that it
19 has complied with all discovery obligations, including the production
20 of all Brady information within its possession. Mr. Chavez notified
21 the Court that he disagreed, and that the government has failed to
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23
24 ¹Besides CD's connection to AE as a facilitator, it is unclear how the
25 government intends to connect CD's murder to any of the
26 coconspirators in this case. Further, defendant has a good faith
27 belief that the government is in possession of information that MS-
28 13, and not the Mexican Mafia, were responsible for CD's murder.

1 even review files that contain likely Brady and Giglio information.
2 On Friday July 29, 2014, pursuant to this Court's order, Mr. Chavez
3 filed supplemental briefing on this issue.

4 Just hours ago, the government began producing, for the very first
5 time, information from the CWs' central and confidential files.
6 Information from CW-4 and CW-6's files and from AEs file **have not**
7 **been produced yet**. Productions from CW-1 and CW-5's files contain
8 exculpatory and *Giglio* information. Among other things, CW-5's file
9 contains information that CW-5 continued to work for AE through 2017
10 - well after he cooperated with the government and years after he
11 claimed to have been asked to murder AE's brother. This information
12 was provided to the government by inmate E. Defendant Chavez does
13 not know Inmate E's identity and has not had an opportunity to speak
14 with him about the exculpatory information he provided to the
15 government.

16 CW-5'S file also contains information that CW-5 continued to engage
17 in illegal conduct with associates of the Mexican Mafia through 2019.
18 This means CW-5 was engaged in unauthorized illegal conduct with the
19 Mexican Mafia while he cooperated with agents in this case. This
20 information was provided to the government by inmate A. Mr. Chavez
21 does not know inmate A's identity and has not had an opportunity to
22 speak with him about the *Giglio* information he provided to the
23 government.

24 CW-1's file contains information that he was heavily addicted to
25 drugs, hallucinated, and had memory lapses during the time he
26 cooperated with the government. This information was provided to the
27 government by an inmate whose identity Mr. Chavez does not know and
28 to whom he has had no opportunity to speak.

1 As of the filing of this motion, Mr. Chavez still has not received
2 information from the files of AE, CW-4 or CW-6. CW-4 previously
3 tried to murder Mr. Chavez, so it is expected that his file will
4 contain exculpatory information. It is also expected that AE's file
5 will contain additional information regarding his alleged stepping-
6 down and the murders of GE and CD.

7 III. ARGUMENT

8 Under *Brady* and its progeny, the prosecution has a constitutional
9 duty to disclose to the defense material exculpatory evidence,
10 including potential impeaching evidence. (*Giglio v. United States*,
11 405 U.S. at 154; *United States v. Kohring* (9th Cir. 2011) 637 F.3d
12 895, 901 (recognizing that *Giglio* extends *Brady* to include evidence
13 that impeaches a witness's credibility). Impeachment evidence is
14 sometimes referred to as "*Giglio* evidence." The *Brady* and *Giglio*
15 rules seek to ensure that criminal proceedings are fair and that
16 prosecutors are faithful to the government's overriding interest that
17 justice be done. Whether intentional or inadvertent, *Brady* and
18 *Giglio* violations can have serious consequences, such as reversal of
19 the criminal conviction and remand for a new trial, or modification
20 of the judgment. (See, e.g., *Kyles v. Whitley* (1995) 514 U.S. 419,
21 421-422, 454; *Giglio*, supra, 405 U.S. at pp. 154-155).

22 Here, the government has repeatedly represented to the Court and
23 counsel that all *Brady* and *Giglio* information has been produced.
24 Yet, just earlier today, the government produced exculpatory and
25 impeachment information relating to its main cooperating witnesses.
26 Information relating to AE, GE and CD's murders, and CWs 3 and 6 is
27 still outstanding. Mr. Chavez is entitled to know impeachment
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1 information in the government's possession before he explains his
2 case in opening to the jury. The government has been investigating
3 this matter for nearly a decade. The remedy for its failure to
4 produce exculpatory and *Gigio* information should be the exclusion of
5 (1) all references to the stepping down of AE and the murders of GE
6 and DC; and (2) CW-4 and CW-6 as witnesses at trial.

7 IV. CONCLUSION

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9 For the foregoing reasons, Mr. Chavez respectfully requests that
10 the Court preclude the government from (1) referencing to the
11 stepping down of AE and the murders of GE and DC; and (2) calling CW-
12 4 or CW-6 as witnesses at trial. Further, the government should be
13 ordered to produce the informant referenced in CW-1's file prior to
14 the start of trial.

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16 Dated: July 31, 2022

Respectfully submitted,

17 /s/ Meghan Blanco

18 MEGHAN A. BLANCO
19 Attorney for Defendant,
MEGHAN BLANCO

DECLARATION OF MEGHAN BLANCO

I, MEGHAN BLANCO, declare:

1. I am counsel of record for defendant Solomon Brooks in the instant matter. I have been licensed to practice law in the State of California for almost 12 years. For approximately five years, I was an Assistant United States Attorney in the Public Corruption & Civil Rights Section of the United States Attorney's Office for the Central District of California, where, among other things, I investigated and prosecuted law enforcement corruption and civil rights abuses.

2. Attached hereto as exhibit A is a true and correct copy of a notarized statement by Ms. Elizabeth Brainard dated June 19, 2016.

3. Attached hereto as exhibit B is a true and correct copy of the recording of the June 3, 2016 incident played during the preliminary hearing in this matter.

4. Attached hereto as exhibit C is a true and correct copy of Officer Newton's Report dated June 4, 2016.

5. Attached hereto as exhibit D is a true and correct copy of Officer Vriens's Report dated June 4, 2016.

6. Attached hereto as Exhibit E is a true and correct copy of Officer Del Real's report dated June 3, 2016.

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1 7. Attached hereto as Exhibit F are true and correct photographs
2 taken of Mr. Brooks following the incident.

3 I declare under penalty of perjury, pursuant to the laws of the
4 State of California, that the foregoing is true and correct to the
5 best of my information and belief.

6 Executed on this 29 day of March, 2017 in Laguna Niguel,
7 California.

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9 By: _____
10 MEGHAN BLANCO
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